

**FILED**

**MAR 30 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

DONA SHIRANI WEJETUNGA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-71840

Agency No. A95-588-967

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Argued and Submitted February 17, 2006  
San Francisco, California

Before: PAEZ and TALLMAN, Circuit Judges, and KARLTON,<sup>\*\*</sup> District Judge.

Dona Shirani Wejetunga (“Wejetunga”) petitions for review of a decision of the Board Immigration Appeals (“BIA”) affirming an Immigration Judge’s (“IJ”)

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Cir. R. 36-3.

<sup>\*\*</sup> The Honorable Lawrence K. Karlton, Senior United States District Judge for the Eastern District of California, sitting by designation.

denial of her request for withholding of removal.<sup>1</sup> We lack jurisdiction over Wejetunga's claim that she was persecuted on account of her religion because she failed to exhaust this argument before the BIA. 8 U.S.C. § 1252(d)(1). We therefore dismiss this claim. We do, however, have jurisdiction over Wejetunga's claim that she was persecuted on account of membership in a particular social group. 8 U.S.C. § 1252(a). Because the IJ's ruling on this claim is supported by substantial evidence, we deny the petition.

The BIA summarily affirmed the IJ's decision; therefore, we review the IJ's decision as the final agency determination. *Tchoukhrova v. Gonzales*, 404 F.3d 1181, 1188 (9th Cir. 2005). We review for substantial evidence the IJ's decision that Wejetunga was not eligible for withholding of removal. *Id.* We assume, without so holding, that Wejetunga's group of "Sri Lankan women who fail to conform to customary laws of their respective ethnic and religious groups" could constitute a particular social group. *See Mohammed v. Gonzales*, 400 F.3d 785, 797 (9th Cir. 2005); *In re Kasinga*, 21 I. & N. Dec. 357, 365-66 (B.I.A. 1996). However, Wejetunga has not demonstrated that such a group exists. Wejetunga presented no evidence whatsoever that anyone other than Wejetunga herself fits

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<sup>1</sup>Wejetunga does not appeal the denial of her applications for asylum or relief under the Convention Against Torture.

the description of the “group.” Because Wejetunga has not established that other women in Sri Lanka are subject to persecution for failing to conform to their ethnic and religious groups’ customs, substantial evidence supports the IJ’s ruling that Wejetunga is not eligible for withholding of removal on account of membership in a particular social group.

**DISMISSED** in part; **DENIED** in part.